IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 18454 of 2017

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Lallan Pratap Singh, Son of Late Raghunath Singh, Resident of Village- Baruna Station, P.S.- Buxar Industrial Area, District- Buxar.

... ... Petitioner/s

Versus

1. The State of Bihar, through the Director General of Police, Bihar, Patna.
2. The Deputy Inspector General of Police, Rohtas.
3. The Accountant General, Bihar, Patna.
4. The Superintendent of Police, Rohtas.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Dhananjay Kumar, Advocate
For the State	:	Mr. P K Verma, AAG 3
		Dr. Anand Kumar, AC to AAG 3
For the Accountant General	:	Mr. Bindhyachal Rai, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date : 22-06-2020

The matter has been heard *via* video conferencing due to lockdown imposed on account of the COVID-19 pandemic.

2. On 18.06.2020, the matter was adjourned to be listed today i.e., 22nd June, 2020, but inadvertently, in the order it has been typed 22nd July, 2020. The Registry, noting such discrepancy, the matter has been listed under the heading ‘To Be Mentioned’.

3. With consent of the parties, the matter has been heard on merit and is being disposed off.

4. Heard Mr. Dhananjay Kumar, learned counsel for the petitioner; Mr. P K Verma, learned AAG 3 along with Dr. Anand Kumar, learned AC to AAG 3 for the State and Mr. Bindhyachal Rai, learned counsel for the Accountant General, Bihar.

5. The petitioner is aggrieved by deduction of Rs. 40,448/- from his post retiral benefits on the ground of wrong fixation of his pay in the year 1991.

6. Learned counsel for the petitioner submitted that the petitioner superannuated from service from the post of Inspector of Police on 30.04.2014, from the district of Rohtas. It was submitted that thereafter his pensionary benefits were paid but an amount of Rs. 40,448/- was deducted due to objection raised by the Accountant General. It was submitted that the same is inadmissible on the ground, according to the respondents, the petitioner's pay was wrongly fixed and, thus, the same was revised on the ground that defective salary slip was issued from Singhbhum with effect from 29.07.1991 and, as a consequence, by district order contained in Letter No. 2466 dated 25.07.2015, issued by the Superintendent of Police, Rohtas, which is impugned in the present application, a sum of Rs. 40,448/- was directed to be deducted from the retiral dues of the petitioner and the petitioner was directed to refund the same with interest.

Learned counsel submitted that the law stands settled that after such a long period, the authorities are precluded from raising objection with regard to wrong fixation of pay, that too in the year 2015, relating back to the year 1991, when the petitioner had no role in such fixation. Learned counsel submitted that even the Courts have held it to be impermissible.

7. Learned counsel for the State submitted that the amounts relates to two periods. Firstly, from 1991 to 1996 and thereafter, from the year 2006 to 2014, when the petitioner superannuated and the total comes to Rs. 40,448/-, which has been asked to be refunded with interest. However, on a query of the Court to learned State counsel as to whether there was any role of the petitioner in wrong preparation of his pay bill at any point of time, the answer was in the negative.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that the action of the respondents cannot be sustained. The amount of Rs. 40,448/- relating to correction with regard to the pay fixed of the petitioner from the year 1991, and that too deducted after more than a year after his superannuation in the year 2014, is neither reasonable nor justified. Besides, at the cost of repetition, as there has been no role of the petitioner, the Courts

have repeatedly held that the authorities cannot make recovery, especially when a person has superannuated from service. In the present case, matters becomes worse as straightaway an order has been passed without affording an opportunity to the petitioner to explain. On the point of giving a notice to the petitioner, the Court finds that at this juncture, it would be an exercise in futility as the law which stands now clearly is in favour of the petitioner of no amount being recoverable, for any error of the authorities, leading to excess payment during the service period of the petitioner. Moreover, the amount not being substantial, the matters needs to be finally concluded.

9. Accordingly, the writ petition stands allowed.

10. The order impugned by which sum of Rs. 40,448/- has been directed to be deducted/refunded with interest from the petitioner stands quashed. The petitioner shall be paid the full amount as per the authority issued in favour of the petitioner prior to the issuance of the impugned order. Whatever, amount which may have been deducted from the post retiral benefits of the petitioner, pursuant to the order impugned dated 25.07.2015, if any, shall be credited into the account of the petitioner within one month from the date of production of a copy of this order before the Treasury Officer, Buxar.

11. It goes without saying that the recommendation by the Accountant General raising objection, also stands set aside.

(Ahsanuddin Amanullah, J.)

P.Kumar/Anand Kr.

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